

STATE OF MICHIGAN
COURT OF APPEALS

ALEX J. BANAS and JOSEPHINE M. BANAS,

Plaintiffs-Appellants,

v

WILLIAM B. MULDER and DIANA MULDER,

Defendants-Appellees.

UNPUBLISHED

July 10, 2001

No. 224604

Barry Circuit Court

LC No. 98-000688-CH

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

PER CURIAM.

Plaintiffs appeals as of right from the trial court's judgment granting in part and denying in part their request for an injunction. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In 1985, defendant William Mulder purchased a campground located on a parcel of property (hereinafter the "Mulder parcel") adjacent to a parcel owned by plaintiffs. The land contract granted Mulder an easement over a thirty-foot strip of land on the western edge of plaintiffs' property. The easement allowed vehicles to gain access to the Mulder parcel. In 1995, Mulder purchased a second parcel of property (hereinafter the "Marker parcel"). This parcel is adjacent to both the Mulder parcel and plaintiffs' parcel. Mulder expanded his campground to the Marker parcel. Campers and delivery trucks seeking access to the Marker parcel began using the easement over plaintiffs' property. A dispute arose regarding defendants' use of the easement. An attempt to settle the matter by modifying the easement slightly did not succeed.

Plaintiffs filed a verified complaint seeking to enjoin any use of the easement by defendants, and to recover money damages for harm done to their property. The trial court permanently enjoined defendants from allowing campers and delivery trucks to use the easement to reach the Marker property, but allowed continued use of the easement to reach the Mulder property. In addition, the court awarded plaintiffs \$1,500 for damage done to their driveway.

Plaintiffs argue that the trial court abused its discretion by denying their request that defendants be enjoined from using the easement for any purpose. We disagree and affirm the trial court's judgment. We review a trial court's decision to grant or deny injunctive relief for an abuse of discretion. *Senior Accountants, Analysts & Appraisers Ass'n v Detroit*, 218 Mich App 263, 269; 553 NW2d 679 (1996). A trial court's interpretation of an easement presents a

question of law which we review de novo. *Schroeder v Detroit*, 221 Mich App 364, 366; 561 NW2d 497 (1997). An easement is the right to use the land of another for a specified purpose. Once granted, an easement cannot be modified by either party unilaterally. The owner of an easement cannot materially increase the burden on the servient estate, or impose a new and additional burden. *Schadewald v Brule*, 225 Mich App 26, 35-36; 570 NW2d 788 (1997).

In *Schadewald, supra*, the defendants sought to expand an existing easement to gain access to newly acquired property. The plaintiffs, who owned the servient estate, sought injunctive relief. This Court reversed the trial court's denial of injunctive relief, finding that no easement existed for the newly acquired property, and that the defendants could not expand the existing easement on a unilateral basis. *Id.* at 39-41. In this case, the injunctive remedy fashioned by the trial court parallels that fashioned by this Court in *Schadewald, supra*. A reading of *Schadewald, supra*, does not support plaintiffs' assertion that that case stands for the proposition that an easement holder who improperly expands the easement risks losing all rights to the easement should the facts so warrant. The plaintiffs in *Schadewald, supra*, did not seek to enjoin the defendants from using the easement as originally granted. By requesting that defendants be permanently enjoined from using the easement in any manner, plaintiffs were seeking to improperly modify the easement unilaterally. The trial court's grant of a partial injunction did not constitute an abuse of discretion. *Senior Accountants, supra*.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy